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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/750,475	12/28/2000	Lynh Nguyen	STL919990134US3/A8644	7832
46159 7590 03/09/2012 SUGHRUE MION PLLC USPTO CUSTOMER NO WITH IBM/SVL 2100 PENNSYLVANIA AVENUE, N.W. WASHINGTON, DC 20037				
EXAMINER				
CHANKONG, DOHM				
ART UNIT		PAPER NUMBER		
2452				
MAIL DATE		DELIVERY MODE		
03/09/2012		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

09/750,475

**Applicant(s)**

NGUYEN, LYNH

**Examiner**

DOHM CHANKONG

**Art Unit**

2452

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 28 February 2012 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
 Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.  
 NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.

6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.  
 Claim(s) objected to: \_\_\_\_\_.  
 Claim(s) rejected: \_\_\_\_\_.  
 Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_

13. ☐ Other: \_\_\_\_\_.

/DOHM CHANKONG/  
 Primary Examiner, Art Unit 2452

Continuation of 11. does NOT place the application in condition for allowance because: Applicant argues that:

1. Albert does not disclose a port module bypassing the connection manager in the subsequent request;
2. Guentthner does not disclose a port module sending an error message to the interface module indicating the unavailability of the data source.

With respect to Applicant's first argument, Applicant further argues that Albert is not concerned with the subsequent request for the data source because "the packets of Albert are not requests for the data source." This argument is not persuasive the packets are being sent to a server (i.e., a data source) [column 6 «lines 60-63»]. The data flows that Applicant focuses on in the arguments are merely flows that connect the client to the server and are used to transport packets between them. Therefore, future packets being sent from the client are directed to the server which is analogous to a data source. Albert therefore discloses using the forwarding agent (i.e., port module) to bypass the service manager (i.e., connection manager) and are directed to a server (i.e., data source).

With respect to Applicant's second argument, Applicant further argues that Guentthner merely discloses returning an error when there is no entry in a table that is marked "Current" and that this does not provide a teaching of "(i) an error message being sent to the interface module and (ii) an error message indicating the unavailability of the data source." Guentthner's HAL represents the current status of data sources. That is, the HAL represents whether a data source is available or unavailable [Fig. 4: status of "OK" means that the data source is available and status of "BAD" means that the data source is not available]. Guentthner's parsing of the HAL represents a determination of whether or not servers are available. If the HAL indicates that no servers are available, an error message is returned [column 7 «lines 40-53»]. Therefore, the error message represents an indication that the servers are not available. This error message is sent to the user's browser (i.e., interface module).

For the foregoing reasons, Applicant's arguments are not persuasive.